

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COVER LETTER

FROM: BRANDON WEINBERG
MDOC ID # 520124
KINROSS CORR. FACILITY (KCF)
4533 INDUSTRIAL PARK DRIVE
KINCHELOE, MI, 49788

TO: US DIST JUDGE LAURIE J.
MICHELSON (P47214) RM 744
CLERK DAVID J WEAVER
THEODORE LEVIN U.S. COURTHOUSE
231 W. LAFAYETTE BLVD
DETROIT, MICHIGAN
48226

ENCLOSED PLEASE FIND A "DOCUMENTARY REQUEST
TO BE ADDED AS A CLASS ACTION MEMBER
TO THE "DENTAL CLASS ACTION LAWSUIT"
CASE NO # 14-11691-LJM-MKM IN COMPLIANCE
WITH (FRCP) FEDERAL RULE OF CIVIL PROCEDURE
23(C)(2)(A) IN THE COURTROOM OF JUDGE
LAURIE J. MICHELSON. { MELVIN BOWNES, ET AL }
VS -
{ HEIDI WASHINGTON }
CV-LAWSUIT, US DIST CT.,

DATE 1-22-2020

/s/ Brandon Weinberg
BRANDON WEINBERG
MDOC ID # 520124

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MELVIN BOWNES ET AL)

- VS -)

HEIDI WASHINGTON)
DEFENDANT (MDOC))

CLASS ACTION DENTAL CASE)

BRANDON WEINBERG # 520124)

COUNTY OF KINCHESKOE)
ss

HON: JUDGE LAURIE J. MCHESON

CASE NO. 14-11691-LJM-MKM

DOCUMENTARY REQUEST TO BE INCLUDED AS A
CLASS ACTION MEMBER IN THE ABOVE CAPTIONED
CERTIFIED CLASS ACTION JUDICIARY APPROVED (FEB. 13, 2019)
COURT ORDER FOR THE "DENTAL CLASS ACTION
LAWSUIT." FEDERAL RULE OF CIVIL PROCEDURE
23(C)(2)(A); 42 USC 1997A-K; 28 USC 1331;

1) I, BRANDON WEINBERG, DULY SWEARS, I AM INCARCERATED
IN THE KINROSS CORRECTIONAL FACILITY (KCF) LOCATED
IN KINCHESKOE COUNTY IN THE CITY OF KINCHESKOE
IN THE STATE OF MICHIGAN.

2) I, BRANDON WEINBERG, HEREBY REQUEST TO BE
ADDED AS A CLASS ACTION MEMBER TO THE ABOVE
CAPTIONED DENTAL LAWSUIT FOR THE FOLLOWING
REASONS:

a) I, BRANDON WEINBERG HAS BEEN WAITING FOR
URGENT DENTAL SERVICES BY (KCF)
DENTAL HEALTH CARE DEPARTMENT SINCE
ARRIVAL IN KINROSS CORRECTIONAL FACILITY

Case 2:14-cv-01691-AMM Document 290-2 Filed 02/07/20 Page 3 of 13
FOR FULL AND PARTIAL DENTURES. (NOTE: TOP PORTION OF MOUTH IS ALL GUMS (NO TEETH AT ALL) BOTTOM PORTION OF MOUTH HAS ONLY SEVEN TEETH (ADULT GROWTH))

b) SENT SEVERAL DENTAL KITES UNDER PRISON DENTAL POLICY (PD 04.06.150) AND SENT FINAL KITE ON NOVEMBER 12, 2019 - TAKEN BY AUDREY KIRBY, RDH. KIRBY (RDH) REPLY "WEINBERG IS NOT ELIGIBLE FOR ROUTINE DENTAL SERVICES PER MDOC PD 04.06.150 DOES NOT MEET TWO YEAR ELIGIBILITY REQUIREMENT, WEINBERG CAN KITE FOR ROUTINE CARE AFTER 7/3/21 (JULY 3, 2021) (SEE KCF DENTAL CARE ELECTRONIC RECORD FILE)

c) THE NOVEMBER 12 2019 DENTAL KITE STATED "URGENT" CLEARLY DETAILED - GUMS HURT AND SWOLLEN, UNABLE TO EAT, MISSING MEALS FOR (2) DAYS, HAS SEVERE HEADACHES (NOTE CLASS IV B PROVIDES: ALL PRISONERS WAITING UNDER URGENT DENTAL SERVICES IT TAKES THREE DAYS TO PROVIDE DENTURES, CAUSE ANY TIME PAST THREE DAYS CAUSES A SERIOUS HARM AND EXPOSURE TO SUBSTANTIAL FUTURE SERIOUS HARM.)

d) CLASS III PROVIDES "ALL PRISONERS IN A MDOC PRISON WHO HAVE REQUESTED DENTURES AND MEET THE CRITERIA FOR DENTURES SEC 15 AND 16 OF CHAPTER VI OF THE MDOC DENTAL SERVICE MANUAL SHALL BE PROVIDED CONSIDERATION FOR DENTURES REQUESTED."

e) MSU CIVIL RIGHTS CLINIC; (APA) ADMINISTRATIVE PROCEDURE ACT AND THE PRISON LITIGATION REFORM ACT AUTHORIZES DENTURE PATIENT POSTEXTRACTION PROBLEM OF BRANDON WEINBERG TO BE ADDED TO THE "DENTAL CLASS ACTION LAWSUIT" CASE NO: 14-11691-LJM-MKM, FEDERAL RULE OF CIVIL PROCEDURE 23(c)(2)(A) IS TIMELY FILED TO APPLY WITHIN THE 60 DAY TIME LIMIT.

F) MDOC INFORMED WEINBERG IS NOT ELIGIBLE FOR ROUTINE DENTAL SERVICES AND DOES NOT MEET THE TWO YEAR ELIGIBILITY REQUIREMENT AND CAN KITE FOR ROUTINE CARE AFTER 7/3/21 NOT ELIGIBLE FOR DENTAL CARE UNDER PRISON POLICY DIRECTIVE PD 04.06.150. (SEE ATTACHED MED KITE 11/12/19)

G) ON MARCH 3, 2019 AFTER BEING CONVICTED TO 78 MONTHS - 130 MONTHS IN THE ST. JOSEPH COUNTY JAIL, ALL OF MR. WIENBERG PERSONAL PROPERTY INCLUDING MR. WIENBERG DENTURES, AND PLACED THEM IN A AREA ONLY STAFF HAS ACCESS TO ENTER. WHEN MR. WEINBERG REQUESTED FOR HIS DENTURES, THE REQUEST WAS IGNORED BY DOC COUNTY JAIL STAFF RESULTING IN THE ORIGINAL

ADEQUATE REQUIRED DENTURES BECOMING MISSING OR /

DESTROYED VIA MDOC PD 04,06,150 ETAL, NO EVALUATION FOR THE SWELLING OR PAIN WAS EVER PROVIDED CLEARLY VIOLATING PD 03,03,130 ETAL. INVOKING REDRESS BY FEDERAL COURT INTERVENTION. (SEE ATTACHED EX #A) (MR. WEINBERG IS NOT ELIGIBLE FOR ANY DENTAL CARE OF MDOC DENTAL DUE PROCESS UNDER PD 04,06,150 UNTIL AFTER JULY 3, 2021, ONE YEAR AND SEVEN MONTHS)

H) FEDERAL LAW HOLDS "A SHOWING OF CONSTITUTIONAL DEPRIVATIONS NECESSITATES THE COURTS INTERVENTION" (SEE 1971 MICHAPP, WOJNIEZ V MDOC 32 MICHAPP 121) AUDREY KIRBY, RDH (KCF DENTAL CARE) PUT MR. WEINBERG ON "OFFICIAL NOTICE" (EX #A) THAT HE WOULD NOT BE ELIGIBLE FOR DENTAL CARE UNTIL AFTER 19 MONTHS HAS ELAPSED. FEDERAL LAW PROVIDES IN FARROW V. WEST 320 F3d 1235 (11th CIR. 2003) A FIFTEEN MONTH DELAY IN PROVIDING DENTURES VIOLATES THE 8TH AMENDMENT OF THE U.S. CONST, PARTICULARLY IF THE PRISONER IS SUFFERING PAIN IN THE INTERIM, FARROW V. WEST SUPRA. THIS UNLAWFUL DELAY IN DENTAL DENTURES IS STATEWIDE WITHIN ALL THE PRISONS IN THE STATE OF MICHIGAN, THEREBY A TRANSFER TO A DIFFERENT PRISON IS USELESS AND A (BAD FAITH) DELAY.

I) UNDER STATE AND FEDERAL LAWS THIS REQUEST CAN BE CLEARLY

ADJUDICATED ON THE COURTS DISCRETION
 AS THE FOLLOWING: (1) A PROPER INDEPENDENT
 CLASS ACTION CIVIL RIGHTS DENTAL CARE LAWSUIT
 IN COMPLIANCE WITH CIVIL RIGHTS OF INSTITUTIONALIZED
 PERSONS ACT 42 USCA 1997 ET AL AND UNIVERSAL
 DECLARATION OF HUMAN RIGHTS ARTICLE # 5
 CRUEL AND INHUMAN TREATMENT / ALSO ARTICLE # 25
 DUE PROCESS OF MEDICAL CARE. NOTE: DENTAL CARE
 IS ONE OF THE MOST IMPORTANT "MEDICAL NEEDS"
 OF INMATES. SEE HUNT V DENTAL DEPT. 865 F2d
 198, 200 (9th CIR 1989); RAMOS V. LAMM 639 F2d
 559, 576 (10th CIR 1980); ACCORD, WYNN V. SOUTHWARD,
 251 F3d 588, 593, (7th CIR 2001); DELAYS IN DENTAL
 CARE PAINS (EXTREME SUFFERAGE) VIOLATES THE 8th
 AMENDMENT OF U.S. CONST. HARFIELD V COLBURN,
 371 F3d 454 (8th CIR, 2004) (SIX WEEKS DELAY DENTAL CARE IS
 UNLAWFUL); CANELL V BRADSHAW, 840 F. SUPP. 1382, 1387, 1393
 (D OR, 1993), 97 F3d 1458 (9th CIR 1997) (SEVERAL DAYS DELAY IN
 DENTAL CARE VIOLATES 8th AMEND (U.S. CONST.) FIELDS V GAUDER,
 734 F2d 1313, 1315 (8th CIR 1984) (THREE WEEKS). (2) A DECLARATORY
 REVIEW FOR FEDERAL QUESTION 28 USC 1331; IN WEINBERG'S
 DENTAL CARE NEEDS, EIGHT WEEKS OF PAIN AND DENIAL
 OF ABILITY TO EAT SOLID FOODS WITH DENTURES
 HAS ELAPSED A CLEAR VIOLATION OF THE EIGHT
 AMENDMENT OF THE U.S. CONSTITUTION,

J) QUALIFIED IMMUNITY ANALYSIS RESTS ON A PERSON "STANDARD, THE GOVERNMENT OFFICIALS SUBJECTIVE "GOOD FAITH" IS NOT RELEVANT. HARLOW, 457 US AT 915-18, 102 S Ct 2727 FERNANDEZ V- DISTRICT OF COLUMBIA 382 F.Supp2d 63, 70 (D.D.C, 2005) MDC WARDEN JACK KOWALSKI, DEPUTY WARDEN DAVE ISARD, ADMINISTRATIVE ASST. MASTAC (EIO), DEPUTY WARDEN BROWN AND LITIGATION COORDINATOR GUSTAFSON ALL HAD ACTUAL KNOWLEDGE OF THE DENTAL CARE "DENTURES" LAWSUIT, AND FAILED TO ACT IN THE FACE OF KNOWN VIOLATIONS OF ITS WRITTEN POLICIES IS RELEVANT CIRCUMSTANTIAL EVIDENCE TO SHOW CMS, CORIZON, MEDICARE, AND OTHER STAFF DENTAL/MEDICAL EMPLOYEES "KNOWLEDGE AND STATE OF MIND." see Clement v. Gomez 298 F3d 898, 904 (9th 2002). see Woodward v Correctional Medical Services (CMS). ALL THE ABOVE GOVERNMENT OFFICIALS AT KINROSS CORR. FACILITY (KEF) UNDER LAWFUL IS NOT SHIELDED FROM LIABILITY, WHERE THEY "COULD BE EXPECTED TO KNOW THAT THEIR CONDUCT VIOLATE STATUTORY / OR CONSTITUTIONAL RIGHTS. see FARMER v MORITSUGU, 163 F3d 610, 613 (D.D.C 2005), 533 US AT 200, 121 S Ct 2151.

K) PRISONER BRANDON WEINBERG IS PROTECTED BY § 504 OF THE REHABILITATION ACT OF 1973, 29 USC 794(A) AND BY TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 USC 12131 et seq. (Yeskey v PENNSYLVANIA DEPT OF CORRECTIONS 118 F3d 168, 174-75 (3d Cir. 1997); 524 US 206 (1998) (ADA))

L) FEDERAL LAW DIRECTS PRISONER TO USE EXPEDITED LEGAL MAIL SYSTEM IN PRISON'S THAT PROVIDE SUCH PROCEDURE, AS VALID PROOF OF SERVICE. MICHIGAN PENAL SYSTEM HAS SUCH PROCESS - SEE MDOC Policy Directives PD 05.03.118 AND PD 05.03.116. FORM CST 318 OP 05.03.118 / OP 05.03.116. THIS DOCUMENTARY REQUEST WAS MAILED BY EXPEDITED LEGAL MAIL.

FOOTNOTE PRISONER WEINBERG HAS BEEN SUFFERING PAIN FROM DENIED DENTAL CARE FOR OVER EIGHT WEEKS, FEDERAL LAW CLEARLY ESTABLISHED THREE TO SIX WEEKS VIOLATES THE 8TH AMEND. US CONST. "A DELIBERATE INDIFFERENCE CONCERN" (PROOF OF SERVICE)

STATE OF MICHIGAN }
COUNTY OF KINCHELOE }

AFFIDAVIT

I BRANDON WEINBERG BEING FIRST DULY SWORN AND UNDER THE PENALTY OF PERJURY. HEREBY STATE THAT THE FACTS IN MY DOCUMENTARY REQUEST TO BE INCLUDED IN THE ABOVE CERTIFIED "DENTAL CLASS ACTION LAWSUIT" CASE # 14-11691 LJM-MKM BOWNE VS WASHINGTON ET AL IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Respectfully
SUBMITTED

DATE 1-22-2020

151 Brandon Weinberg
BRANDON WEINBERG IN PRO SE
(AFFIANT)
4533 W. INDUSTRIAL PARK DR.
KINCHELOE, MICHIGAN 49788

MICHIGAN DEPARTMENT OF CORRECTIONS



Kite Response

ORIGINAL COPY

Patient Name	BRANDON WEINBERG	520124	G2-51	Age	36 Years
Date Received	11/12/2019				
Time Received					
Taken By	Audrey Kirby, RDH				
Date Initiated	11/10/2019				

Action & Resolution

<u>Date</u>	<u>Time</u>	<u>User</u>	<u>Detail</u>
11/12/2019	9:41 AM	Audrey Kirby, RDH	Schedule Dental Exam approx 11/12/2019 with Dentist by Audrey Kirby, RDH. . Reason: urgent. Details: missing teeth makes gums hurt and swell. This makes me unable to eat anything for a couple of days, which gives me bad headaches. Wondering about full and partial dentures so I can eat again.. Comments: Patient is not eligible for routine dental services per MDOC PD 04.06.150, does not meet the two year eligibility requirement. Pt can kite for routine care after 7/3/21. However you will be scheduled for an evaluation for the swelling; watch your call out..

Other

Reason: urgent.

Details: missing teeth makes gums hurt and swell. This makes me unable to eat anything for a couple of days, which gives me bad headaches. Wondering about full and partial dentures so I can eat again..

Comment: Patient is not eligible for routine dental services per MDOC PD 04.06.150, does not meet the two year eligibility requirement. Pt can kite for routine care after 7/3/21. However you will be scheduled for an evaluation for the swelling; watch your call out..

WEINBERG, BRANDON
520124
04/08/1983

NOTE: DENTAL PATIENT
BRANDON WENBERG
IS DENIED ACCESS
TO ANY TYPE OF
DENTAL CARE IN KEF
HEALTH SERVICES OR
ANY OTHER MDOC
DENTAL PROVIDER
UNTIL AFTER JULY 3, 2021

All Dental
Care under
Prison Policy
MDOC PD 04-0150
has been permanently
denied until after
July 3, 2021.

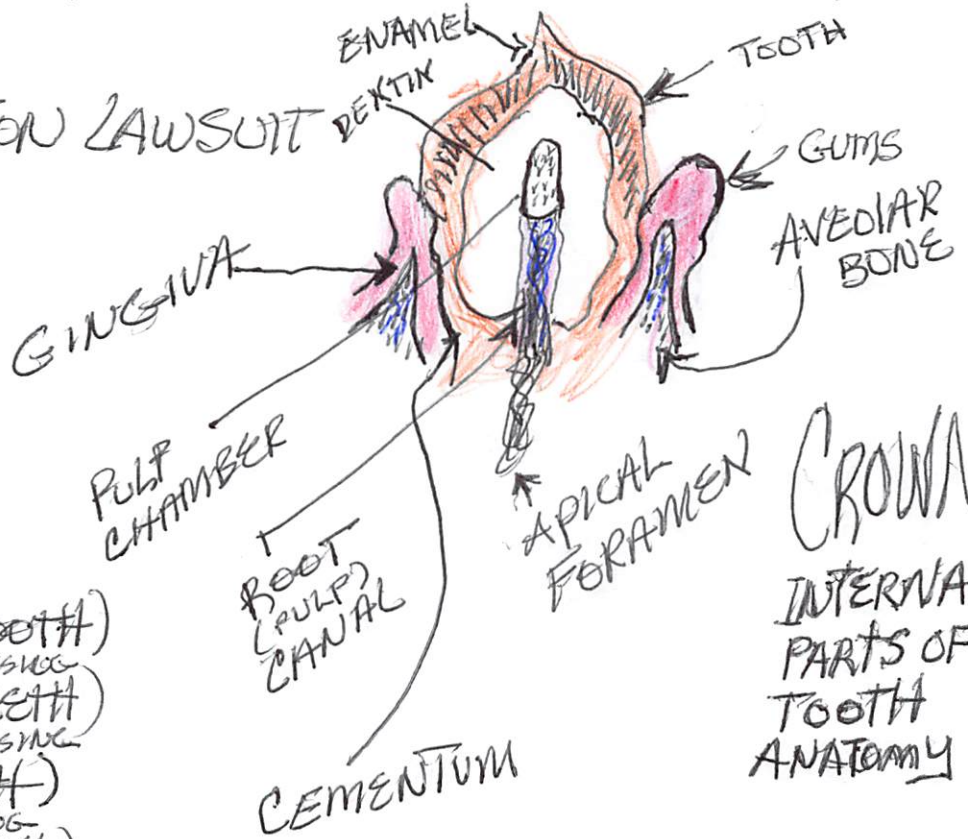
THIS POSSES A IMMEDIATE
DANGER TO PATIENT WENBERG
FUTURE HEALTH IN DENTAL
CARE UNDER THE 5TH 8TH AND
14TH AMEND. U.S. CONST.

WENBERG IS FORCED TO
MISS MEALS WITH
HEALTHY FOOD CHOICES
NO TREATMENT OR
EVALUATION FOR THE
SWELLING IN OR A
CALCULUS PROVIDED
AS SCHEDULED
BY KEF MED.
STAFF ETC.

PATIENT - BRANDON WEINBERG

(EXHIBIT #B)

DENTAL CLASS ACTION LAWSUIT



BRANDON'S MISSING TEETH

CENTRAL INCISORS (1 ^{MISSING} TEETH)

LATERAL INCISORS (2 ^{MISSING} TEETH)

1ST MOLAR (4 ^{MISSING} TEETH)

2ND MOLAR (5 ^{MISSING} TEETH)

CANINES (3 ^{MISSING} TEETH)

SECOND MOLAR (7 ^{MISSING} TEETH)

TEETH INTACT ★ WISDOM TEETH

MANDIBULAR MOLARS
HAS SILVER AMALGAM FILLING

TOTAL SEVEN TEETH INTACT MOUTH IS 97% ALL GUMS AND SORE, SWOLLEN, CONTINUOUS PAIN, CAN NOT CHEW SOLIDS FOODS, HURT TO CHEW,

DENTAL STAFF FULLY AWARE OF
FOOTNOTE: MR. WEINBERG'S URGENT NEED
OF DENTURES AND PAIN MEDS

NO SCHEDULED EVALUATION FOR THE SWELLING WAS EVER PROVIDED BY MDOC DENTAL SERVICES!

STATION WASHINGTON
 (202) 4533 W INDUSTRIAL PARK DR,
 KINCHELOE, MICHIGAN 49738



TO: UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF MICHIGAN
 SOUTHERN DIVISION

HONORABLE JUDGE LAURIE J. MICHELSON (P47214) RM 744
 CLERK COURT ADMINET, DAVID J. WEAVER RM 585
 CASE NO: 14-11691-2JM-MKM
 THEODORE LEVIN UNITED STATES COURTHOUSE
 231 W. LAFAYETTE BLVD

DETROIT, MICHIGAN
 48226

RECEIVED
 JAN 28 2020
 LAURIE J. MICHELSON
 U.S. DISTRICT JUDGE

DENTAL CLERK
 ACTION LAWYER

MSU CIVIL RIGHTS CLINIC
610 ARBOL RD
EAST LANSING, MICHIGAN
48823
MDEE PD 05,03,116
US DIST CT JURISDICTION
FEDERAL RULE OF
CIVIL PROCEDURE
42 USC 19974K
28 USC 1331
28 USC 1331
MDEE PD 05,03,118 BT#
COURT CLERK ADMINISTRATOR DAVID J. WELCHER
HONORABLE JUDGE LAURIE J. MICHELSEN (P47214) (RM 505)
MELVIN BOWLES ET AL - VS - HEIDI WASHINGTON
CASE NO. 14-11691-LJM-MKM (RM 74)
UNITED STATES DISTRICT COURT (CENTRAL MICHIGAN)
THEEDORE (EUN) UNITED STATES COURTHOUSE